

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

RUSTEM KAZAZI, et al.

Movants,
v.

U.S. CUSTOMS AND BORDER
PROTECTION, et al.

Respondents.

No. 1:18-MC-00051-DAP

JUDGE DAN AARON POLSTER

DECLARATION OF WESLEY HOTROT

I, Wesley P. Hottot, state the following under 28 U.S.C. § 1746(2):

1. My name is Wesley Hottot. I am a citizen of the United States, a resident of the State of Washington, and over the age of 18. I submit this Declaration in support of Movants Rustem, Lejla, and Erald Kazazi's motion for an award of attorneys' fees. I am fully competent to make this Declaration, which I make based on my personal knowledge.

2. I am a senior attorney at the Institute for Justice—a nonprofit, public-interest law firm headquartered in Arlington, Virginia. My office address is 600 University Street, Suite 1730, Seattle, WA 98101-3150.

3. I have been a practicing attorney with the Institute for Justice since 2008. I am a graduate of the University of Virginia and the University of Washington School of Law. I am an active member in good standing of both the Texas bar (admitted 2008) and Washington bar (admitted 2014), and I have been admitted *pro hac vice* to practice before this Court.

4. In my ten years of legal practice, I have developed substantial expertise in civil-forfeiture cases in both federal and state court. For example, I was lead counsel for the property owner in *United States v. \$32,820.56*, No. C13-4102-LTS (N.D. Iowa) & No. 15-2622 (8th Cir.), as well as in a combined set of forfeiture cases in the Superior Court of the State of California (*In re Seizure of Wells Fargo Bank Accounts, et al.*, Case No. MCR 16-061); in both cases, I secured the full return of my clients' property after substantial litigation. I am currently lead counsel in a case pending before the U.S. Supreme Court: *Timbs v. Indiana*, No. 17-1091, a forfeiture case, which I argued for the Petitioner on November 28, 2018.

5. I am a member in good standing of the U.S. Supreme Court bar and member of the Sixth Circuit, Eighth Circuit, Ninth Circuit, and district courts in Texas and Washington.

6. I have substantial first-chair experience outside the forfeiture context in both state and federal courts—including advocacy in jury trials, bench trials, and appeals. I have argued multiple federal and state appeals, most notably the *Timbs* case and *Patel v. Texas Department of Licensing & Regulation*, 469 S.W.3d 69 (Tex. 2015), in which the Texas Supreme Court ruled that Texas's cosmetology-licensing requirements could not constitutionally be applied to my clients, in the process announcing a new test for challenges to state economic regulations.

7. I undertook representation of Movants pro bono, as I have done in all of the cases discussed above. In the *Patel* case, the Institute and I obtained a judgement for attorneys' fees and costs against the State of Texas in the amount of \$421,783.56. I seek fees in this matter by reference to prevailing market rates for attorneys of my experience in the Cleveland area.

8. Attached as Exhibit A is a true and correct copy of excerpts from my contemporaneously recorded time entries for this case. In the exercise of billing judgment, I have excluded entries totaling 47 hours and further excluded all time after the telephonic conference

that this Court held on June 8, 2018. The remaining entries included in Exhibit A amount to 94.5 hours, all of which in my judgment were reasonably necessary to fulfill my ethical duties to my clients and this Court. The remaining tasks reflected in Exhibit A were all, in my opinion, all reasonably necessary to the Kazazis' victory and could otherwise ethically be billed to a client. Portions of certain entries have been redacted to preserve attorney-client privilege.

9. In further exercise of billing judgment, I have determined not to seek fees for time reasonably expended by other employees of the Institute for Justice. Most notably, time records reveal 109.5 hours dedicated to this case by my paralegal, Hilary Loya, as well as 256.05 hours by associate attorney Johanna Talcott (who was also admitted *pro hac vice*) before she left our employment to serve as a law clerk to the Honorable Adalberto Jordan of the Eleventh Circuit. I have excluded those hours despite the true value of Ms. Loya's and Ms. Talcott's contributions to the Kazazis' victory. In my opinion, the better part of their time was essential to the proper litigation of this case. That otherwise ethically billable time has been excluded wholesale in an effort to place the reasonableness of Movants' fee request beyond question.

10. Additionally, I have excluded all out-of-pocket costs incurred by the Institute for Justice in this case, although in many instances those costs, in my judgment, were both reasonably necessary to the Kazazis' victory and otherwise could be ethically billed to a client.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 12th day of December, 2018


Wesley Hottot

Exhibit A

Wesley	Hottot	4/2/2018	1327	1	Cleveland Forfeiture	0.25	Meet with HL re pro hac plan in relation to case launch and discuss whether to seek admission to the ND Ohio instead.
Wesley	Hottot	4/2/2018	1327	1	Cleveland Forfeiture	0.75	Prepare and send draft translation services agreement to Nita Hoxha.
Wesley	Hottot	4/4/2018	1327	1	Cleveland Forfeiture	3	Attention to Kazazis tax records send from Erald and email HL and JT about saving them to worddox with the utmost confidentiality.
Wesley	Hottot	4/4/2018	1327	1	Cleveland Forfeiture	0.25	Emails with translator Nita Hoxha about providing services for case.
Wesley	Hottot	4/4/2018	1327	1	Cleveland Forfeiture	0.75	Researching potential local counsel; emails with JT, DB and MLoP re; email to potential local counsel.
Wesley	Hottot	4/4/2018	1327	1	Cleveland Forfeiture	0.5	Review Jo's draft client agreement letters and draft discovery hold letters, edit and email her with comments.
Wesley	Hottot	4/6/2018	1327	1	Cleveland Forfeiture	0.25	Email potential local counsel Patrick Lewis about the case; set up telephone meeting for next week.
Wesley	Hottot	4/10/2018	1327	1	Cleveland Forfeiture	0.5	Call with potential local counsel Patrick Lewis.
Wesley	Hottot	4/10/2018	1327	1	Cleveland Forfeiture	0.75	Work on translator agreement; discuss with JT.
Wesley	Hottot	4/10/2018	1327	1	Cleveland Forfeiture	0.5	Working with JT on client agreement letters; email to DS re.
Wesley	Hottot	4/12/2018	1327	1	Cleveland Forfeiture	0.5	Attention to emails re client agreement letters; send final letters to SB.
Wesley	Hottot	4/12/2018	1327	1	Cleveland Forfeiture	0.75	Prepare discovery hold letters for sending to clients tomorrow.
Wesley	Hottot	4/12/2018	1327	1	Cleveland Forfeiture	1	Researching deadlines for government to file forfeiture complaint; email to JT re.
Wesley	Hottot	4/12/2018	1327	1	Cleveland Forfeiture	1.75	Working on motion for return of property based on statute of limitations.
Wesley	Hottot	4/13/2018	1327	1	Cleveland Forfeiture	3	Working on motion for return of property.
Wesley	Hottot	4/16/2018	1327	1	Cleveland Forfeiture	0.25	Email translator interpreter Nita Hoxha re translating client agreement letter.
Wesley	Hottot	4/16/2018	1327	1	Cleveland Forfeiture	0.5	Emails with client EK re statute of limitations defense.
Wesley	Hottot	4/17/2018	1327	1	Cleveland Forfeiture	0.25	Email local counsel Patrick Lewis.
Wesley	Hottot	4/17/2018	1327	1	Cleveland Forfeiture	1	Investigating lack of filing of complaint; email with Erald re confirmation of delivery of second package; calls with Jo re.

Wesley	Hottot	4/17/2018	1327	1	Cleveland Forfeiture	1.25	Prepare local counsel and translator agreements for DK's review; email re.
Wesley	Hottot	4/17/2018	1327	1	Cleveland Forfeiture	2.25	Researching how to move for return of property based on expiration of the statute of limitations.
Wesley	Hottot	4/18/2018	1327	1	Cleveland Forfeiture	0.75	Attention to local counsel's request for a direct agreement with the client; email him back; email DK re.
Wesley	Hottot	4/18/2018	1327	1	Cleveland Forfeiture	0.5	Call with Erald and Jo to discuss [REDACTED] [REDACTED].
Wesley	Hottot	4/18/2018	1327	1	Cleveland Forfeiture	0.5	Checking docket for complaint.
Wesley	Hottot	4/18/2018	1327	1	Cleveland Forfeiture	0.25	Email client to update them about [REDACTED] [REDACTED].
Wesley	Hottot	4/18/2018	1327	1	Cleveland Forfeiture	3	Researching procedural mechanisms for seeking return of property where there is no case filed and procedures for filing class action.
Wesley	Hottot	4/18/2018	1327	1	Cleveland Forfeiture	1	Work on canceling meetings and trip for case launch in light of no complaint.
Wesley	Hottot	4/19/2018	1327	1	Cleveland Forfeiture	0.75	Call with DK about local counsel's request for a direct agreement with the client; review model agreement sent by DK.
Wesley	Hottot	4/20/2018	1327	1	Cleveland Forfeiture	0.25	Checking in with Heidi about client agreement letters going out from Scott.
Wesley	Hottot	4/20/2018	1327	1	Cleveland Forfeiture	0.75	Working with DK on translator and local counsel letters; emails to local counsel and translator re.
Wesley	Hottot	4/23/2018	1327	1	Cleveland Forfeiture	0.75	Call with Erald and family to discuss [REDACTED] [REDACTED] [REDACTED].
Wesley	Hottot	4/23/2018	1327	1	Cleveland Forfeiture	1	Working on translator issues for letter; call and email with DK and translator re.
Wesley	Hottot	4/24/2018	1327	1	Cleveland Forfeiture	0.25	Looking for complaint, still no complaint.
Wesley	Hottot	4/25/2018	1327	1	Cleveland Forfeiture	0.5	Att to email from Erald [REDACTED] [REDACTED].
Wesley	Hottot	4/25/2018	1327	1	Cleveland Forfeiture	0.5	Attention to email from DK with final translator agreement; email to translator re; work with HL on a letter and mailing with the execution copies.
Wesley	Hottot	4/25/2018	1327	1	Cleveland Forfeiture	0.25	Email Erald asking him to [REDACTED] [REDACTED]; att to his response; email back.
Wesley	Hottot	4/25/2018	1327	1	Cleveland Forfeiture	0.25	Look for complaint on ECF.

Wesley	Hottot	4/26/2018	1327	1	Cleveland Forfeiture	0.25	Attention to signed client agreement letters; forward to HL and JT.
Wesley	Hottot	4/26/2018	1327	1	Cleveland Forfeiture	0.25	Email Dan K updating him about progress of local counsel agreement.
Wesley	Hottot	4/26/2018	1327	1	Cleveland Forfeiture	0.5	EMail local counsel updating him about plan over next two to three weeks and requesting execution of local counsel and client agreement letters.
Wesley	Hottot	4/26/2018	1327	1	Cleveland Forfeiture	0.25	Email to Erald about [REDACTED]
Wesley	Hottot	4/26/2018	1327	1	Cleveland Forfeiture	0.75	Prepare for and attend call with clients to discuss [REDACTED] [REDACTED]
Wesley	Hottot	4/26/2018	1327	1	Cleveland Forfeiture	0.75	Working on motion for return of property.
Wesley	Hottot	4/27/2018	1327	1	Cleveland Forfeiture	0.25	Att to local counsel's draft agreement letter with Kazazis; responsive email.
Wesley	Hottot	4/30/2018	1327	1	Cleveland Forfeiture	0.5	Emails with Erald and HL and JT re exhibits in support of MSJ
Wesley	Hottot	4/30/2018	1327	1	Cleveland Forfeiture	0.5	Review evidence of when CBP received first and second claims; send two emails to Erald about [REDACTED] [REDACTED]
Wesley	Hottot	4/30/2018	1327	1	Cleveland Forfeiture	2.4	Working on motion for return of property.
Wesley	Hottot	5/1/2018	1327	1	Cleveland Forfeiture	0.5	Attention to Erald's VM re [REDACTED]; email HL about making an exhibit [REDACTED]
Wesley	Hottot	5/1/2018	1327	1	Cleveland Forfeiture	0.25	Email with JMCD re CBP numbers of seizures at port of cleveland.
Wesley	Hottot	5/2/2018	1327	1	Cleveland Forfeiture	2.25	Working on motion for return of property.
Wesley	Hottot	5/3/2018	1327	1	Cleveland Forfeiture	1	Working on motion for return of property
Wesley	Hottot	5/11/2018	1327	1	Cleveland Forfeiture	0.5	Review pro hac motions and email with HL about needed edits.
Wesley	Hottot	5/17/2018	1327	1	Cleveland Forfeiture	5	Working on motion for return of property and research re.
Wesley	Hottot	5/17/2018	1327	1	Cleveland Forfeiture	0.75	Working on pro hac motions for Wesley and Jo; send to HL; discussion with HL.
Wesley	Hottot	5/18/2018	1327	1	Cleveland Forfeiture	0.5	Email to local counsel with questions for clerk re the filing of our motion for return of property next week.
Wesley	Hottot	5/18/2018	1327	1	Cleveland Forfeiture	1.25	Working on drafting motion for return of property.

Wesley	Hottot	5/21/2018	1327	1	Cleveland Forfeiture	0.25	Call with JO to discuss declarations.
Wesley	Hottot	5/21/2018	1327	1	Cleveland Forfeiture	0.5	Review draft declarations for Erald and Lejla for the motion for return of property.
Wesley	Hottot	5/21/2018	1327	1	Cleveland Forfeiture	1	Working on motion for return of property.
Wesley	Hottot	5/22/2018	1327	1	Cleveland Forfeiture	0.25	Email to local counsel re service of motion.
Wesley	Hottot	5/22/2018	1327	1	Cleveland Forfeiture	4	Working on motion for return of property draft.
Wesley	Hottot	5/23/2018	1327	1	Cleveland Forfeiture	0.5	Email to local counsel about who and how to serve; responding to his email of the previous night; research re.
Wesley	Hottot	5/23/2018	1327	1	Cleveland Forfeiture	1	Researching requirements for service of a motion for return of property; discussion with HL re; review rules re.
Wesley	Hottot	5/23/2018	1327	1	Cleveland Forfeiture	5	Working on drafting motion for return of property.
Wesley	Hottot	5/24/2018	1327	1	Cleveland Forfeiture	2	Drafting motion for return of property; make changes based on DB's edits; send to DS.
Wesley	Hottot	5/24/2018	1327	1	Cleveland Forfeiture	0.25	Email to local counsel to set up call to discuss filing plan and related issues tomorrow.
Wesley	Hottot	5/24/2018	1327	1	Cleveland Forfeiture	1	Review Erald declaration and send suggestions to Jo; discuss exhibits to same with her.
Wesley	Hottot	5/24/2018	1327	1	Cleveland Forfeiture	1.25	Working on exhibits with JT and HL; reviewing their work and making suggestions re.
Wesley	Hottot	5/25/2018	1327	1	Cleveland Forfeiture	1	Call with Patrick Lewis to review draft motion and supporting evidence and discuss filing logistics.
Wesley	Hottot	5/29/2018	1327	1	Cleveland Forfeiture	3.5	Reviewing three client declarations and making edits; discussion with JT re; email to clients re.
Wesley	Hottot	5/29/2018	1327	1	Cleveland Forfeiture	2.75	Working on new draft of motion based on DB's comments and DS's comments; send to local counsel for his review.
Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	0.5	Communicate with local counsel about filing logistics for today/tomorrow.
Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	0.75	Research Bivens implications of suing federal agents in their individual capacities; discuss with AB; make change to brief re.

Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	1.25	Review cite check of motion and brief in support of motion; make changes based on cite check.
Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	0.25	Review civil case cover sheet draft and make corrections for filing; send to local counsel.
Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	0.75	Review declarations for filing tomorrow and discuss changes with JT; review changes for filing.
Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	0.5	Review exhibits for filing tomorrow.
Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	0.5	Review proof of motion for return of property and make changes based on proof.
Wesley	Hottot	5/30/2018	1327	1	Cleveland Forfeiture	2	Reviewing motion and memo in support of motion for filing tomorrow; finalize.
Wesley	Hottot	5/31/2018	1327	1	Cleveland Forfeiture	0.25	Attention to call from Court clerk KK re Judge Polster's request for same day telephone conference; provide her with requested name of agency counsel.
Wesley	Hottot	5/31/2018	1327	1	Cleveland Forfeiture	0.5	Attention to filing of motion for return of property with court in Ohio; answer questions from local counsel re exhibits and filing timing.
Wesley	Hottot	5/31/2018	1327	1	Cleveland Forfeiture	0.75	Discussing service of motion with JT, HL, and Patrick Lewis; attention to amended certificate of service.
Wesley	Hottot	5/31/2018	1327	1	Cleveland Forfeiture	0.5	Review pro hacis for filing.
Wesley	Hottot	6/5/2018	1327	1	Cleveland Forfeiture	0.25	Attention to email from Court re telephone conference on Thursday; email to clerk re; email to opposing counsel re; email to local counsel re.
Wesley	Hottot	6/5/2018	1327	1	Cleveland Forfeiture	0.25	Attention to email from Erald re [REDACTED] [REDACTED] [REDACTED]
Wesley	Hottot	6/5/2018	1327	1	Cleveland Forfeiture	0.25	Email opposing counsel about talking before the telephone conference in light of Court's expressed preference for the matter being resolved before the conference.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	1	After call with opposing counsel, researching sovereign immunity law relevant to claim for remaining \$770.

Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.5	Answer clients questions about discrepancy between amount we claimed and amount CBP is willing to return; answer email from Erald and speak to the clients by phone.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.5	Attention to emails from Erald forwarding hold harmless agreement; review same; confer with JT re.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.5	Call with DA, AB, and JT re "hold harmless" sent to Kazazis and whether the Kazazis can join the Houston class based on that.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.25	Call with Renee Bacchus re upcoming status hearing, hold harmless agreement, and payment method.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.5	Calls with DB, DA, AB, and JT re how to approach status conference with Judge tomorrow and call with opposing counsel today.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	2	Continue researching sovereign immunity case law in 6th cir and elsewhere in light of opposing counsel's argument that the government can lose property and then enjoys immunity from its recovery.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.5	Discuss whether Kazazis should disclose latest developments in the case with the Plain Dealer in the interview tomorrow; email with Rek and JJW re.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.25	Per opposing counsel's instructions, write to CBP paralegal with instructions to return the client's money by check.
Wesley	Hottot	6/6/2018	1327	1	Cleveland Forfeiture	0.25	Respond to Local counsel's question about settlement and report on call with opposing counsel.
Wesley	Hottot	6/7/2018	1327	1	Cleveland Forfeiture	0.5	Attend court ordered status conference to discuss next steps in the case.
Wesley	Hottot	6/7/2018	1327	1	Cleveland Forfeiture	0.25	Call with AB discussing Bivens claims ahead of call with judge.
Wesley	Hottot	6/7/2018	1327	1	Cleveland Forfeiture	0.5	Call with local counsel ahead of conference with the judge.
Wesley	Hottot	6/7/2018	1327	1	Cleveland Forfeiture	0.5	Email to local counsel re our position in hearing later today.
Wesley	Hottot	6/8/2018	1327	1	Cleveland Forfeiture	0.5	Attend telephone conference with the judge re settlement conference in July and exchanging evidence in support of our claims to the additional \$770.
Wesley	Hottot	6/8/2018	1327	1	Cleveland Forfeiture	0.1	Call to U.S. Attorney re method of paying the clients for the \$57,330.

Wesley	Hottot	6/8/2018	1327	1	Cleveland Forfeiture	0.5	Call with JO about preparing our documents for disclosure per the court's order.
Wesley	Hottot	6/8/2018	1327	1	Cleveland Forfeiture	0.25	Email with local counsel about finding process server to serve agent Stark.
Wesley	Hottot	6/8/2018	1327	1	Cleveland Forfeiture	2	Preparing for telephone conference with judge by researching trial publicity rule and emailing DB re and by researching sovereign immunity law in light of the government's argument that it is immune from returning the additional \$770 because the government "can only give back what it has."
						94.5	